PAGE No. 2

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(4)

IN THE HIGH COURT OF JUDICATUREATBILASPUR

WRIT PETITION NO. :6812/2006

PETITIONER : **SANJAY KUMAR THAKUR**
S/o Late, Shri, Pratap Singh, Aged about 36 Years, By Occupation, Assistant Teacher. Kanya Ashram, Chhindnar, Block-Geedam, Distt. Dantewada (C.G.)

P.R. No. 6932/06
Presented by Shri... Prakash Diwan
Dated... 30/11/06

-: VERSUS: -

RESPONDENTS:

1. **State of Chhattisgarh**
Through the Secretary,
Department of Scheduled Tribe- Scheduled Cast and Triable Welfare Department,
Raipur D.K.S. Bhavan,
Mantralya Raipur.(C.G.)

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2. **The Collector** Dantewada
District South Bastar (C.G.)

3. **AssistantCommissioner,**
Department of Triable Welfare
Dantewada, Diistt. South Bastar (C.G.)

26/11/06

4. **Principal,**
Kanya Ashram, Chindnar Block
Geedam, Distt. Dantewada
(C.G.)

WRIT PETITION UNDER ARTICLE 226 /227 OF THE CONSTITUTION OF INDIA FOR THE ISSUANCE OF THE DIRECTION (S), OR ORDER (S).

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

W.P.(S) No. 6812/06

मामला क्रमांक ..... सन् 200

(33)

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	15.12.2006 Shri Prakash Tiwari, Advocate for the Petitioner(s). Smt. Anju Ahuja, Deputy Government Advocate for the State/respondents. With the consent of learned counsel for the parties, the writ petition is heard finally. Common order dictated in Writ Petition (S.) 6812/2006 in open Court, passed separately. **Sd/-** **Satish K. Agnihotri** **Judge**	

Subhash

P.T.O.

(34)

HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. (S) No. 6812 of 2006

Petitioner : Sanjay Kumar Thakur

Versus

Respondents: State of Chhattisgarh & others

W. P. (S) No. 6813 of 2006

Petitioner : T. Ravindra Singh

Versus

Respondents: State of Chhattisgarh & others

W. P. (S) No. 6814 of 2006

Petitioner : Ku. Pramila Pandey

Versus

Respondents: State of Chhattisgarh & others

And

W. P. (S) No. 6815 of 2006

Petitioner : Dhirendra Jha

Versus

Respondents: State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Present: Shri Prakash Tiwari, Advocate for the Petitioner(s).

Smt. Anju Ahuja, Deputy Government Advocate for the State/respondents.

ORDER

(Passed on 15th day of December, 2006)

1. The petitioners are working as Assistant Teachers/Upper Division Teachers/Head Master in the government schools. In the course of their services as Assistant Teachers/Upper Division Teachers/Head

35

Master, the petitioners have obtained B.Ed./B.T.I. examination certificates on their own expenses before 1.3.1999.

2. Writ Petition (S) No.s 6812/2006, 6813/2006, 6814/2006 and 6815/2006 are being disposed of by this common order as the facts and question of law involved in these petitions are common.

3. According to learned counsel for the petitioners, the petitioners are entitled to two advance increments in view of the decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another {2006 (II) MPJR-CG 96}. This Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), came to the conclusion that the teachers, who had obtained B. Ed./B.T.I. Examination Certificate on their own expenses, are covered by the circular dated 24.12.98 (Annexure P/7) issued by the State Government of Madhya Pradesh.

4. Further in the matter of Smt. Manorama Shrivastava Vs. State of M.P. and others { 2000 (1) M.P.L.S.R. 136 } the Madhya Pradesh State Administrative Tribunal, Gwalior Bench, while considering the circular dated 1.3.1999 wherein, it is provided that the Assistant Teachers, who have acquired B. Ed. degree at their own cost between 23.10.1964 and 7.5.1973 shall be entitled to two advance increments, relied on decision in the case of Rakesh Kumar Shrivastava Vs. State of M.P. & others passed in O.A. No. 1632/99, decided on 12.10.1999 wherein it is observed that the circular dated 1.3.1999 cannot be made applicable retrospectively. Thus, a teacher, may be Assistant Teacher, who has obtained B. Ed. degree before 1.3.1999 is entitled to two advance increments.

5. It is pointed out by learned counsel appearing for the petitioners that the then State of Madhya Pradesh had filed a Special Leave

(36)

Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No. 1999/2000 filed against the order of the Tribunal. Therefore, the direction to the effect that the circular dated 1.3.1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers who have obtained B. Ed./B.T.I. examination certificate before 1.3.1999. It is further substantiated by a circular dated 17.10.2003 issued by the present State of Madhya Pradesh wherein the circular clearly states about the decision of the Supreme Court.

6. Learned counsel for the petitioners further submits that the facts and question of law involved in the present case are squarely covered by decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), to which learned counsel appearing for the respondents fairly concedes and agrees with the averment made by learned counsel appearing for the petitioners.

7. Accordingly, the writ petitions are allowed in terms of the order passed in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), subject to verification of the fact as to whether the petitioners have acquired B.Ed./B.T.I. Examination Certificate on their own expenses as per the circulars dated 24.12.1998 and 1.3.1999 and further whether they have been paid two advance increments or not. No order as to costs.

8. A copy of this order be placed on record in connected matters.

Sd/-
Satish K. Agnihotri
Judge

Subhash